

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

GEORGE E. WILSON, ET AL.,

Plaintiffs,

V.

THE BANK OF NEW YORK MELLON,
ET AL.,

Defendants.

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No. 3:12-cv-4636-M-BN

**ORDER ACCEPTING FINDINGS, CONCLUSIONS, AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

After making an independent review of the pleadings, files, and records in this case, and the Findings, Conclusions, and Recommendation of the United States Magistrate Judge dated August 1, 2013, the Court finds that the Findings, Conclusions, and Recommendation of the Magistrate Judge are correct and they are accepted as the Findings, Conclusions, and Recommendation of the Court.

IT IS, THEREFORE, ORDERED that the Findings, Conclusions, and Recommendation of the United States Magistrate Judge are accepted.

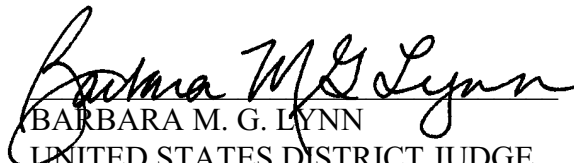
Defendants' Motion to Dismiss [Dkt. No. 5] is GRANTED in part and DENIED in part.

Plaintiffs' claims based on: (1) anticipatory breach of contract based on Bank of America's alleged lack of authority to appoint a substitute trustee; (2) breach of contract; (3) fraud; (4) violations of the Texas Property Code; (5) violations of the Texas Finance Code based on the alleged failure of Bank of America, BAC Home Loan Servicing, L.P., and BONY to obtain bonds, and violations of the Texas Business and Commerce Code based on the alleged failure of Bank of

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America, BAC Home Loan Servicing, L.P., and BONY to obtain bonds; and (6) an accounting, are
all dismissed without prejudice, and Plaintiff may amend within 21 days of the date of this Order to
attempt to state those claims properly. If no such amendment is filed, the Court will dismiss those
claims with prejudice without further notice.

The Court DENIES Defendants' Motion to Dismiss as to Plaintiffs' claims based on (1)
violations of the Texas Finance Code based on Bank of America's alleged lack of authority to
appoint a substitute trustee and (2) violations of the Texas Business and Commerce Code Violation
based on Bank of America's alleged lack of authority to appoint a substitute trustee.

SO ORDERED this 18th day of September, 2013.


BARBARA M. G. LYNN
UNITED STATES DISTRICT JUDGE
NORTHERN DISTRICT OF TEXAS